

I hereby certify that this correspondence, including recited attachments, is being electronically transmitted to the Commissioner for Patents in the United States Patent and Trademark Office on the date below:

Our Case No. 8627-51
Client Ref. No. PA-5322-RFB

Accordingly, Applicant hereby requests a refund for the April 19 second appeal fee charge of \$500. Enclosed is a copy of the Pre-Appeal Brief Request for Review of April 19 and Pre-Appeal Brief Request for Review of November 3, 2006 and detail evidencing the duplicate charges.

As noted in MPEP §1204.01, “Any previously paid appeal fees set for the in 37 CFR 41.20 for filing a notice of appeal, filing an appeal brief, and requesting an oral hearing (if applicable) will be applied to the new appeal on the same application as long as a final Board decision has not been made on the prior appeal.” Because prosecution was re-opened in response to the first pre-appeal brief request for review, the Board did not act on Applicant’s appeal and no final Board decision was made. Therefore, as stated in MPEP § 1204.01, the appeal fee paid on November 3, 2006 for the first pre-appeal brief request for review should have been applied to the second pre-appeal brief request for review filed April 19, 2007. Because the Patent Office double charged Applicant for the appeal fee, Applicant believes a refund of \$500 is warranted.

Respectfully submitted,

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